

### **REMARKS**

This response is intended as a full and complete response to the non-final Office Action mailed September 4, 2008. In the Office Action, the Examiner notes that claims 1-25, 27 and 28 are pending and rejected. By this response, Applicants have amended claims 1, 2, 12 and 28. Support for the amendments may be found in Applicants' specification on at least page 12, lines 3-27.

In view of the foregoing amendments and the following discussion, Applicants submit that none of the claims now pending in the application are anticipated or obvious under the respective provisions of 35 U.S.C. §§102 and 103.

It is to be understood that Applicants, by amending the claims, do not acquiesce to the Examiner's characterizations of the art of record or to Applicants' subject matter recited in the pending claims. Further, Applicants are not acquiescing to the Examiner's statements as to the applicability of the art of record to the pending claims by filing the instant response including amendments.

#### **I. REJECTION OF CLAIMS 1-4, 7-16, 25, 27 AND 28 UNDER 35 U.S.C. §102**

The Examiner has rejected claims 1-4, 7-16, 25, 27 and 28 under 35 U.S.C. §102(3) as being anticipated by Ellis et al. US2003/0149988A1 (hereinafter "Ellis"). Applicants respectfully traverse the rejection.

Applicants' claim 1 recites:

1. A method, comprising:
  - receiving audiovisual data from a desired transmission channel;
  - if said audiovisual data is not compressed according to a predetermined format, compressing said received audiovisual data according to said predetermined format;
  - storing dynamically, in a mass storage device and for a predefined period of time, compressed audiovisual data received from said desired transmission channel according to a title plan generated by a time shift scheduler, wherein said title plan includes a plurality of content, wherein at least one of said plurality of content has a variable duration, wherein storing dynamically comprises:
    - allocating a portion of memory in the mass storage device;
    - utilizing a predetermined amount of said allocated portion of memory;
    - allocating an additional portion of memory in the mass storage device in response to utilizing said predetermined amount of said allocated portion of memory; and

repeating said utilizing and said allocating said additional portion of memory until all of said at least one of said plurality of content having a variable duration is stored; and  
in response to a user request, providing to said user said stored compressed audiovisual data beginning with a portion of said stored compressed audiovisual data having associated with it a first temporal parameter. (Emphasis added).

Anticipation requires the presence in a single prior art reference disclosure of each and every element of the claimed invention, arranged as in the claim. Ellis fails to disclose each and every element of the claimed invention, as arranged in claim 1.

Specifically, Ellis fails to teach or suggest at least storing dynamically, wherein storing dynamically comprises allocating a portion of memory in the mass storage device, utilizing a predetermined amount of said allocated portion of memory, allocating an additional portion of memory in the mass storage device in response to utilizing said predetermined amount of said allocated portion of memory and repeating said utilizing and said allocating said additional portion of memory until all of said at least one of said plurality of content having a variable duration is stored, as recited in claim 1. For example, Applicants' invention teaches that upon utilization of the predetermined amount of allocated memory, memory sufficient to store an additional hour's worth of content is allocated and the process is repeated as necessary until reception of the variable length time-shifted content has terminated. (See e.g., Applicants' specification, p. 12, ll. 3-27).

Ellis fails to anticipate Applicants' invention because Ellis fails to teach or suggest at least storing dynamically, wherein storing dynamically comprises allocating a portion of memory in the mass storage device, utilizing a predetermined amount of said allocated portion of memory, allocating an additional portion of memory in the mass storage device in response to utilizing said predetermined amount of said allocated portion of memory and repeating said utilizing and said allocating said additional portion of memory until all of said at least one of said plurality of content having a variable duration is stored. Responsive to the Examiner, Applicants herein amend claims 1, 2, 12 and 28 to recite the fact that storing dynamically comprises allocating a portion of memory in the mass storage device, utilizing a predetermined amount of said allocated

portion of memory, allocating an additional portion of memory in the mass storage device in response to utilizing said predetermined amount of said allocated portion of memory and repeating said utilizing and said allocating said additional portion of memory until all of said at least one of said plurality of content having a variable duration is stored. In light of the amendment, Applicants' invention provides dynamic storage of content having variable duration because the allocation of memory may be continually updated. (See e.g., Applicants' specification, p. 10, ll. 20-26). In contrast, Ellis is silent as to how programs are stored. Ellis appears to teach that a mass amount of storage is set aside for recording entire programs. (See Ellis, para. [0081]).

The Applicants' note that Ellis teaches programs are recorded until the program is finished as highlighted by the Examiner. However, Ellis is silent as to how the program is recorded until the program is finished. As noted above, Ellis appears to simply reserve an enormous amount of memory to achieve complete recordings. (See Ellis, para. [0081]). In addition, Ellis does not specify whether or not the program in the example provided in paragraph [0165] is content having a variable duration. Nowhere does Ellis teach or suggest the novel way content having variable duration is stored as taught by the Applicants' invention. Ellis, at best, appears to teach that a user may select a program that has a defined duration from an interactive programming guide that is recorded until the program ends at the appropriate time. (See Ellis, para. [0087], [0133]; FIGs. 14d and 14e).

Moreover, the Examiner notes that Ellis teaches that portions of the program may be deleted during real-time caching. (See Ellis, para. [0169] and [0200]). This teaches away from the Applicants' invention as the Applicants' invention stores all of the content having a variable duration. Thus, the Applicants' invention dynamically stores content having a variable duration such that all of the content may be recorded.

As previously argued, Applicants' invention provides advantages over Ellis. For example, it is possible that Ellis' invention only captures an amount equivalent to the reserved time block on the program guide (e.g. 6 pm to 8 pm), thereby, not recording the entire sports event if the sporting event continued beyond the reserved time block. Moreover, in the Applicants' invention, a viewer may simply select content having a variable duration for recording from an EPG, e.g. a sporting event, without the need to

specify or customize recording options to account for the possibility that the recording may prematurely end. Rather, by dynamically storing, the allocation of memory is updated to accommodate the possibility that content may go beyond the allotted memory space associated with the allotted time slots within the EPG.

Thus, Ellis does not teach or suggest each and every one of the limitations of Applicants' invention as recited in claim 1. As such, Applicants submit that independent claim 1 is not anticipated by Ellis and is patentable under 35 U.S.C. §102. Independent claims 2, 12 and 28 recite relevant limitations similar to those recited in independent claim 1. Accordingly, for at least the same reasons discussed above, independent claims 2, 12 and 28 also are not anticipated by Ellis and are patentable under 35 U.S.C. §102. Furthermore, claims 3-4, 7-11, 13-16 and 25 and 27 depend directly or indirectly from independent claims 2 and 12, while adding additional elements. Therefore, these dependent claims also are not anticipated by Ellis and are patentable under 35 U.S.C. §102 for at least the same reasons discussed above in regards to independent claims 1, 2, 12 and 28. Therefore, Applicants respectfully request that the Examiner's rejection be withdrawn.

## **II. REJECTION OF CLAIMS 5, 6 AND 17-24 UNDER 35 U.S.C. §103**

### **A. Claims 5, 6 and 17-21**

The Examiner has rejected claims 5, 6 and 17-21 under 35 U.S.C. §103(a) as being unpatentable over Ellis et al. in view of Moeller et al. U.S. Patent No. 5,903,264 (hereinafter "Moeller"). Applicants respectfully traverse the rejection.

Claims 5, 6 and 17-21 depend directly or indirectly from independent claims 2 and 12 and recite additional limitations thereof. Moreover, for at least the reasons discussed above, the Ellis reference fails to teach or suggest Applicants' invention as recited in claims 2 and 12. Accordingly, any attempted combination of the Ellis reference with any other additional reference(s), in a rejection against the dependent claims, would still result in a gap in the combined teachings in regards to the independent claims. As such, Applicants submit that dependent claims 5, 6 and 17-21 are patentable under 35 U.S.C. §103 over Ellis in view of Moeller. Therefore, Applicants respectfully request that the Examiner's rejection be withdrawn.

B. Claims 22-24

Claims 22-24 are rejected under 35 U.S.C. §103(a) as being unpatentable over Ellis in view of Moeller and further in view of Youden et al. U.S. Patent 5,606,359 (hereinafter "Youden"). Applicants respectfully traverse the Examiner's rejection.

Claims 22-24 depend directly or indirectly from independent claim 12 and recite additional limitations thereof. Moreover, for at least the reasons discussed above, the Ellis reference fails to teach or suggest Applicants' invention as recited in claim 12. Accordingly, any attempted combination of the Ellis reference with any other additional references, in a rejection against the dependent claims, would still result in a gap in the combined teachings in regards to the independent claims. As such, Applicants submit that dependent claims 22-24 are patentable under 35 U.S.C. §103 over Ellis in view of Moeller and further in view of Youden. Therefore, Applicants respectfully request that the Examiner's rejection be withdrawn.

**CONCLUSION**

Thus, Applicants submit that all of the claims presently in the application are in condition for allowance. Accordingly, both reconsideration of this application and its swift passage to issue are earnestly solicited.

If, however, the Examiner believes that there are any unresolved issues requiring adverse final action in any of the claims now pending in the application, it is requested that the Examiner telephone Eamon J. Wall or Chin (Jimmy) Kim at (732) 530-9404 so that appropriate arrangements can be made for resolving such issues as expeditiously as possible.

Respectfully submitted,

Dated: \_\_\_\_\_

12/4/08



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